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October 5, 2007

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Portals
Washington, DC 20554

Re: *Ex Parte* Notification - In the Matter of Special Access Rates for Price Cap Local Exchange Carriers AT&T Corp. Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services, WC Docket No. 05-25, RM-10593

Dear Secretary Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this will provide notice that on October 4, 2007, Eric Branfman and Philip Macres of Bingham McCutchen LLP on behalf of a group of CLECs,¹ along with Nancy Lubamersky and Marilyn Ash of TelePacific Communications (who both participated via teleconference), met with following individuals from the Wireline Competition Bureau: Pam Arluk, Jay Atkinson, Randy Clarke, Margret Dailey, Richard Kwaitkowski, Albert Lewis, Deena Shetler, and Cindy Spiers.

During this meeting, we presented the views set forth in the attached document that was distributed and also presented views that were consistent with previous filings made by these parties in this proceeding.

Very truly yours,

/s/ Philip J. Macres

Philip J. Macres

Attachment

¹ 360 Networks (USA), Inc., ATX Communications, Inc., Bridgecom International, Inc., Broadview Networks, Inc., Cavalier Telephone, LLC, Deltacom, Inc., Integra Telecom, Inc., Lightyear Network Solutions, LLC., McLeodUSA Telecommunications Services, Inc., Penn Telecom, Inc., RCN Telecom Services, Inc., SAVVIS, INC., and U.S. TelePacific Communications and Mpower Communications (both of whom d/b/a TelePacific Communications).

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The Marketplace Failure and Need for Special Access Reform

- **The Pricing Flexibility Rules and the CALLS Plan Have Failed to Produce Competitive Special Access Rates**
 - Rates are Not Forward-Looking. The FCC's predictive judgment and market-based approach have failed to produce forward-looking rates reflective of a competitive market
 - Special Access rates are dramatically higher than forward-looking, cost-based rates for comparable UNE services and rates offered by competitors
 - BOCs' excessive special access rates-of-return demonstrate that special access prices are unreasonable
 - Pricing Flexibility has permitted "substantial and sustained" price increases above price cap rates
 - Prices for the BOCs' retail high-capacity service offerings, *e.g.*, Verizon's DSL and FiOS, are significantly lower because competition exists in these markets
 - The Special Access Market is Not Competitive. BOCs continue to possess a bottleneck because almost no viable competitive alternatives to the BOCs' special access services exist.
 - GAO Report Validates CLEC Concerns. Report found that (1) facilities-based competition to end users exist in only a relatively small set of buildings; (2) prices for special access services in MSAs with Phase II pricing flexibility are on average higher than prices elsewhere; and (3) the effects of Phase I and Phase II pricing flexibility contracts on prices serve to impede rather than promote competition.
 - BOCs Impose Unreasonable Non-Price Terms and Conditions. BOCs impose terms designed to limit competition; growth commitments, limits on use of competitors' facilities, limits on use of UNEs, non-cost-based regional commitment plans.
 - BOC Mergers Increase the Need for Reform. Increased concentration facilitates potential for harm; increased economies of scale reduce BOC costs; larger BOC footprints increase the incentive for BOCs to harm competition.
- **Proposed Reforms**
 - Reinitialize Prices. Set prices at forward looking cost.
 - Phase II Pricing Flexibility Should Be Modified to Permit Reductions Only.
 - Reform Price Cap Rules. A productivity based X-factor and additional baskets/categories.
 - Prohibit Unreasonable Terms and Conditions
 - Fresh Look for Existing Special Access Service Contracts. No mandated change to existing contracts.